

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 18

Filed by: Trial Section Motions Panel  
Box Interference  
Washington, D.C. 20231  
Tel: 703-308-9797  
Fax: 703-305-0942

Filed: December 18, 2001



UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

GEORGE J. STEPNIEWSKI  
Junior Party  
(U.S. Patent 5,648,066)

v.

PASCAL ARNAUD AND MYRIAM MELLUL  
Senior Party,  
(U.S. Application 09/049,927).

Patent Interference No. 104,751

Before: SCHAFFER, TORCZON and TIERNEY, Administrative Patent Judges.  
TIERNEY, Administrative Patent Judge.

**JUDGMENT AND RECOMMENDATION**  
(Pursuant to 37 CFR § 1.662(a) and § 1.659(c))

**I. Judgment**

Junior Party Stepniewski has requested adverse judgement as to the invention defined by Count 1, the sole count in the interference. (Paper No. 17).

**FAXED**

**DEC 18 2001**

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**II. Recommendation**

It is recommended that the examiner of Arnaud, U.S. Application 09/049,927 review the Communication (Paper No. 3). As set forth in the Communication, there is a question as to Arnaud's compliance with the written description requirement of 35 U.S.C. § 112, first paragraph for its broadly claimed "non-volatile silicone fluid." Upon a review of the issues raised in the Communication, the examiner should enter any rejection deemed necessary.

Upon consideration of the record, it is:

**ORDERED** that judgment on priority as to Count 1 (Notice Declaring Interference, Paper No. 1, page 5), the sole count in the interference, is awarded *against* Junior Party Stepniewski.

**FURTHER ORDERED** that Junior Party Stepniewski is not entitled to a patent containing claims 1-25 of Stepniewski, U.S. Patent 5,648,066.


**FURTHER ORDERED** that a copy of this final decision shall be placed and given a paper number in the file of Stepniewski, U.S. Patent 5,648,066 and Arnaud et al., U.S. Application 09/049,927.

**FURTHER ORDERED** that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.


**RECOMMENDED** that the examiner review the Communication, Paper No. 3 and make any rejections deemed necessary to ensure Arnaud's compliance with 35 U.S.C. § 112, first paragraph, written description.

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RICHARD E. SCHAFERY  
Administrative Patent Judge

  
RICHARD TORCZON  
Administrative Patent Judge

  
MICHAEL P. TIERNEY  
Administrative Patent Judge

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cc (via Facsimile):

Attorney for Stepniewski:

Thomas G. Rowan, Esq.  
Anthony M. Insogna, Esq.  
PENNIE & EDMONDS LLP  
1155 Avenue of the Americas  
New York, NY 10036

Tel: 212-790-9090  
Fax: 212-869-9741

Karen A. Lowney, Esq.  
ESTEE LAUDER COMPANIES  
125 Pinelawn Road  
Melville, NY 11747

Tel: 631-531-1191  
Fax: 631-531-1340

Attorney for Arnaud:

Charles L. Gholz, Esq.  
Stephen G. Baxter, Esq.  
OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C.  
1755 Jefferson Davis Highway  
4<sup>th</sup> flr.  
Arlington, VA 22202

Tel: 703-412-6485  
Fax: 703-413-2220